

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1215 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? Yes.
2. To be referred to the Reporter or not? No.
3. Whether Their Lordships wish to see the fair copy of the judgement? No.
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No.
5. Whether it is to be circulated to the Civil Judge? No.

-----

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

G J RATHOD

-----

Appearance:

MR HS MUNSHAW for Petitioner

-----

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 13/08/98

ORAL JUDGEMENT

Gujarat State Road Transport Corporation(GSRTC) has filed the present petition to challenge the award passed by the Labour Court, Panchmahals at Godhra in Reference No. 254 of 1992 on 27.3.97.

2. The respondent was working as a conductor on bus running between Santrampur and Vena on 26.1.94. When the said bus was checked by the checking party, as per the allegations of the petitioner, it was found that the

respondent had recovered fare from the passengers but he had not issued tickets to them. A report of the said checking party was submitted and on the strength of the said report, a departmental inquiry was initiated against the respondent. In the departmental inquiry he was found guilty of the misconduct alleged against him and consequently he was dismissed from service on 20.4.94. Hence, an industrial dispute was raised by him which resulted in Reference No.254 of 1992.

3. It was the claim of the respondent that when his bus was checked, it had covered a distance of 1 km from its destination and he was in the process of issuing tickets. He has denied that he had received fare from the passengers and he had not issued tickets to the passengers. Admittedly the checking party had found that there was shortage of cash on hand with the respondent. In view of the said finding of shortage of cash on hand with the respondent the Labour Court has come to the conclusion that the claim of the petitioner that the respondent had received fare from the passengers and had not issued tickets could not be believed and accepted. The Labour Court found that the version given by the respondent is more probable and believable. Said finding recorded by the Labour Court is on appreciation of evidence. Said finding recorded by the Labour Court could not be either perverse or grossly erroneous resulting into miscarriage of justice. Therefore, no interference is called for by exercising powers under Articles 226/227 of the Constitution of India. The Labour Court was quite justified in interfering with the punishment of dismissal awarded by the petitioner for his alleged misconduct in not booking tickets before allowing the bus to ply. The Labour Court has denied back wages from the date of dismissal i.e.28.4.94 till 27.3.97. In the circumstances no interference is called for. In the circumstances, the petition deserves to be dismissed summarily and the same is summarily dismissed. No order as to costs.

(S.D.Pandit.J)